

REMARKS

In view of the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-10 and 80-81, as well as newly present Claim 85, the only claims pending and currently under examination in this application.

The Examiner is thanked for withdrawing all previous rejections.

The Examiner is also thanked for the personal interview held with the undersigned on September 7, 2006. During the interview, the teaching of Sites and Stevens was discussed. The Examiner agreed with the undersigned that Sites appeared to be silent with the respect to a method in which withdrawn blood was not returned to the body, and indicated that this element of the claims appeared to patentably distinguish the pending claims over the cited art in the most recent office action. In addition, the undersigned discussed the Examiner that, contrary to assertions made in the office action, the undersigned believes that Sites does not in fact appear to teach:

- (a) a method in which the agent being removed is a therapeutic or contrast agent;
- (b) a method in which an agent is removed from the coronary sinus;
- (c) or a detector which is upstream from the aspiration element, since the detector in Sites is located outside of the body and therefore is downstream of the aspiration element.

Upon further consideration during the interview, the Examiner indicated that he agreed with the undersigned's understanding of Sites. It is believed that the above paragraph provides an accurate and complete summary of the substance of the interview.

New Claim 85 finds support in the specification at page 24, line 24. As this claim introduces no new matter, its entry by the Examiner is respectfully requested.

Claims 1-10 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Sites (6,413,233).

An element of Claim 1 is that the removed fluid " is not returned to the body."

In contrast to the claimed method, Sites is directed to a method in which fluid is removed from the body, treated and then returned to the body. See Fig. 1 and the description in the specification of Sites regarding the same, which reads in part:

FIG. 1 shows a conceptual drawing of one embodiment of a perfusion hyper/hypothermia treatment system (PHTS) 100 comprising computer system 110 for monitoring and controlling the system using input from a user, monitoring system 200 for measuring various parameters of the PHTS 100 and patient 99 (or other biological organism, organ, or preparation being treated, hereinafter collectively called "patient 99") and for providing representative signals to computer system 110, perfusion system 400 for withdrawing blood from patient 99 and **later returning the blood after treatment**, and extracorporeal circuit (ECC) 300 for treating the withdrawn blood. PHTS 100 can be used to effect either hyperthermia or hypothermia of patient 99, depending on the treatment desired. [emphasis added]

Accordingly, Sites does not teach a method in which blood is not returned to body, as claimed, and in fact teaches away from such a method.

Furthermore, with respect to Claim 5, this claim is further distinguished from Sites since Sites appears to be silent with respect to removing an agent from a coronary sinus.

Furthermore, with respect to Claims 8 to 10, these claims are further distinguished from Sites since Sites appears to be silent with respect to the agent being a therapeutic agent or a contrast agent.

In addition, with respect to Claim 80, this claim is further distinguished from Sites since Sites does not teach a detector located upstream from the aspiration element. Sites fails to disclose such a configuration because the detector relied upon by the Examiner is actually outside of the patient and therefore is downstream from the aspiration element.

As such, Sites does not anticipate Claims 1-10 and 80 under 35 U.S.C. § 102(e) and this rejection may be withdrawn.

Next, Claim 81 was rejected under 35 U.S.C. § 103 (a) as obvious over Sites in view of Stevens. As reviewed above, Sites does not teach a method in which blood is not returned to body, as claimed, and in fact teaches away from such a method. As Stevens was cited solely for fiber optic element of Claim 81, Stevens fails to make up the fundamental deficiency in Sites. Accordingly, Claim 81 is not obvious under 35 U.S.C. § 103 (a) as obvious over Sites in view of Stevens and this rejection may be withdrawn.

New Claim 85 is patentable of the cited references for at least the reasons provided above.

CONCLUSION


Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number CATH-001.

Respectfully submitted,
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By: _____


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